

FIREARM COMMITMENT MODIFICATIONS

2020 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies provisions regarding the commitment of firearms.

Highlighted Provisions:

This bill:

- ▶ provides for circumstances where a cohabitant may commit the firearm of a firearm owner cohabitant without the permission of the owner cohabitant;
- ▶ sets procedures for law enforcement to follow when accepting a firearm committed by a cohabitant without the owner cohabitant's permission; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-5c-201, as last amended by Laws of Utah 2019, Chapters 136 and 369

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53-5c-201** is amended to read:

53-5c-201. Voluntary commitment of a firearm by owner cohabitant -- Law enforcement to hold firearm -- Commitment of a firearm by cohabitant.

(1) As used in this section, "cohabitant" means any individual 18 years of age or older residing in the home who:

- (a) is living as if a spouse of the owner cohabitant;
- (b) is related by blood or marriage to the owner cohabitant;
- (c) has one or more children in common with the owner cohabitant; or
- (d) has an interest in the safety and wellbeing of the owner cohabitant.

(2) ~~[(a)]~~ A cohabitant may voluntarily commit a firearm to a law enforcement agency for safekeeping if the cohabitant believes that the owner cohabitant or another cohabitant with access to the firearm is an immediate threat to:

~~[(i)]~~ (a) himself or herself;

~~[(ii)]~~ (b) the owner cohabitant; or

~~[(iii)]~~ (c) any other person.

~~[(b) A law enforcement agency may not hold a firearm under this section if the law enforcement agency obtains the firearm in a manner other than the owner cohabitant voluntarily presenting, of the owner cohabitant's own free will, the firearm to the law enforcement agency at the agency's office.]~~

(3) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency that receives a firearm in accordance with this chapter shall:

(a) record:

(i) the owner cohabitant's name, address, and phone number;

(ii) the firearm serial number and the make and model of each firearm committed;

~~[and]~~

(iii) the date that the firearm was ~~[voluntarily]~~ committed;

(iv) if the law enforcement agency receives documentation under Subsection (8), a notation of the pending determination of which the owner cohabitant is the subject; and

(v) any other information the law enforcement agency has been made aware of and deems relevant to the commitment of the firearm;

(b) require the cohabitant to sign a document attesting that the cohabitant resides in the home; and

(c) hold the firearm in safe custody for 60 days after the day on which the firearm is ~~[voluntarily]~~ committed~~[-and]~~ or for a longer period of time if properly requested or required under this section.

~~[(d)]~~ (4) ~~[upon proof of identification,]~~ Except as provided in Subsection (6) and after assuring compliance with Subsection (7), a law enforcement agency that receives a firearm in accordance with this section shall return the firearm to:

(i) the owner cohabitant after the expiration of the 60-day period or, if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time

of the request; or

(ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.

~~[(4)]~~ (5) The law enforcement agency shall hold the firearm for an additional 60 days if:

(a) ~~[if]~~ the initial 60-day period expires; and

(b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.

(6) A law enforcement agency may not return a firearm to an owner cohabitant requesting return of the firearm if the owner cohabitant is the subject of any pending determination that may result in the owner cohabitant becoming a restricted person under Section 76-10-503.

(7) Before returning a firearm to an owner cohabitant under Subsection (4), a law enforcement agency shall reasonably assure that the owner cohabitant seeking return of the owner cohabitant's firearm is not the subject of a pending determination described in Subsection (6) and is not currently a restricted person under Section 76-10-503 by verifying:

(a) all accessible and relevant databases;

(b) any documentation provided by a cohabitant or owner cohabitant; or

(c) any other resources available to the law enforcement agency.

(8) A cohabitant who commits, to a law enforcement agency, the firearm of an owner cohabitant who is awaiting a determination for commitment to a mental health authority shall provide the law enforcement agency with documentation supporting that the owner cohabitant is awaiting a determination for commitment to a mental health authority.

~~[(5)]~~ (9) ~~[A]~~ Except as provided in Subsection (8), a law enforcement agency may not request or require that the [owner] cohabitant provide the name or other information of the owner cohabitant who poses an immediate threat or of any other owner cohabitant.

~~[(6)]~~ (10) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection (3), Subsection 53-5c-202(3)(b)(iii), or any other record created in the application of this chapter immediately, if practicable, but no later than five days after immediately upon the:

(a) return of a firearm in accordance with Subsection ~~[(3)(d)]~~ (4); or

95 (b) disposal of the firearm in accordance with Section 53-5c-202.
96 [~~(7)~~] (11) Unless otherwise provided, the provisions of Title 77, Chapter 24a, Lost or
97 Mislaid Personal Property, do not apply to a firearm received by a law enforcement agency in
98 accordance with this chapter.
99 [~~(8)~~] (12) A law enforcement agency shall adopt a policy for the safekeeping of a
100 firearm held in accordance with this chapter.